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2003 10

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

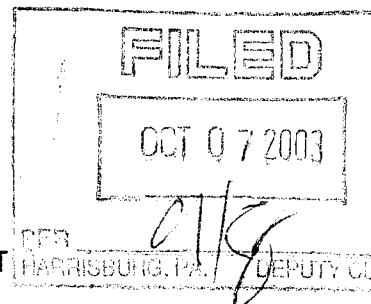
TERRANCE MONTAGUE,
Petitioner

No. 00-CV-00895

v.

ROBERT W. MEYERS, ETAL,
Respomdents

APPLICATION FOR THE COURT TO RESCIND THE JUDGEMENT
RENDERED AT TRIAL FOR CAUSE



TO THE HONORABLE JUDGE J. ANDREW SMYSER, JUDGE OF THE ABOVE CAPTIOED
COURT:

The petitioner in this matter, Terrance Montague, requests that the Court set aside the judgement entered in favor of the defendant's on February 8, 2002 in the above captioned matter for the following cause:

1. The petitioner in this matter who is presently incarcerated at the State Correctional Institute At Smithfield is an individual.
2. The petitioner was aided in the filing of this matter by other inmates who have some knowledge of the law.
3. All prior persons who have assisted the petitioner as well as the petitioner himself, have failed to aver the following:
 - (a) Petitioner had been previously diagnosed as mentally retarded, which is documented in petitioner's Department of Corrections Medical file. (See Exhibit A)
 - (b) Petitioner was at the time of trial and before and after the fact, prescribed high doses of psychotropic medications.

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(c) Petitioner has a Fifth Grade reading and comprehension level, this was ascertained by "TABE" tests which were administered by the Education Coordinator, Mr. Larry Beatty, here at SCI Smithfield.

4. Due to the foregoing reasons petitioner should have had counsel appointed to him to represent his interests in the Court.

5. Petitioner could not have been deemed as being competent to be able to represent himself in trial and make the proper assertions and ask the proper questions to be able to act in an effective manner as a pro se litigant.

5. Respondent's had access to the medical records and should have, or did know that the petitioner was not competent to represent himself due to his handicap and mental condition.

6. The Commonwealth never made issue of the information which they had at their disposal, but chose to take advantage of a mentally retarded individual who was on psychotropic medication.

WHEREFORE, PETITIONER ASKS THAT Court rescind the verdict in the above captioned matter, appoint counsel for the petitioner and order a new trial to be held, since petitioner was not competent to litigate this matter and never should have been self-represented, and should have been deemed incompetent to litigate.

Respectfully submitted,

Terrance Montague

Terrance Montague

VERIFICATION

I, Terrance Montague, hereby verify that the facts contained in the forgoing application are true and correct to the best of my knowledge, information, and belief. This Application is made subject to the penalties of law for unsworn falsifications to authorities.

Date: 10-2-13

Terrance Montague
Terrance Montague

EXHIBIT A

PROBLEM LIST

Prob. Letter	Date	Chronic Problems	ICD-9-CM
A	6-26-90	Asthma Mild-Moderate	493.90
B	6-26-96	Headaches post concussion	784.0
C	6-26-96	Seizures - Partial Complex "Black out"	780.23
D	6-26-96	Major Depressive 311	311
E	6-26-96	Mental Retardation	319
F	12-6-96	Acne	706.1
G	10-25-98	Fracture of lab follow-up for Xegretol Rx	
H	1/99	Exp (2) 5th Metacarpal internal fix + resid deformity	

Prob #	Date	Temporary Problems	Recurrence Date					ICD-9-CM
			1	2	3	4	5	
1	4/24/99	Fracture of right Metacarpal bone						826.0
2	1/9/99	Silicone for 5th metacarpal (re-do)						
3	5-25-99	Chest pain, cold	st	1/00				786.50/460
4	8/94	Sexual Dysfunction (ED) 2 nd Trunc						
5	9/94	(2) Hard Dis/Numbers? (2) CT						719.44/782.0
6	12/99	L50 physical						
7	3/00	? contact dermatitis						692.9
8	5/01	ulcer, chronic						
9								
10								
11								
12								
13								
14								

Problem List
Commonwealth of Pennsylvania
Department of Corrections
DC - 467

Inmate Name:

Montague, Terrance

Inmate Number:

B72701

DOB:

3-10-68

Institution:

MEDICAL DEPARTMENT
STATE CORRECTIONAL INSTITUTION
AT GREENSBURG
P.O. #10, P.O. BOX 10
GREENSBURG, PA 15601-8999

TERRANCE MONTAGNE } 110.00-CV-00895
V PETITIONER
ROBERT W. MEYER, ET AL. }
Respondents }

CERTIFICATE OF SERVICE

I, TERRANCE M. MONTAGNE, HEREBY CERTIFY THAT ON
10-2-03, I SERVED A TRUE AND CORRECT COPY OF THE
APPLICATION FOR THE COURT TO REScind THE
JUDGEMENT RENDERED AT TRIAL FOR CAUSE,
TO THE FOLLOWING BY PUTTING IT IN THE FIRST
CLASS MAIL, ALONG WITH EXHIBIT A.

MARYANNE M. LEWIS
OFFICE OF ATTORNEY
GENERAL COMMONWEALTH
OF PENNSYLVANIA STATE BUILDING
SUNBELT, HARRISBURG, PA 17102

CLERK'S OFFICE
U.S. DISTRICT COURT
228 WALNUT STREET
Rm 2000
HARRISBURG, PA 17102

DATE: 10-2-03

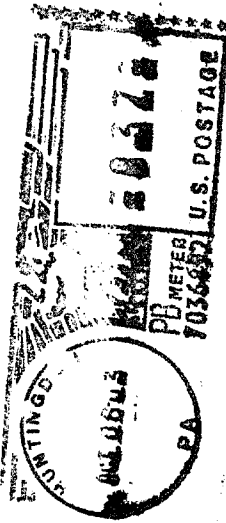
Terrance Montagne

NAME Denise Hakim Mortgage

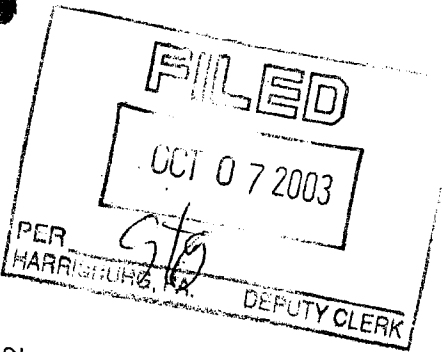
NUMBER BZ-2761

State Correctional Institution at Smithfield
P.O. Box 999, 1120 Pike Street
Huntingdon, PA 16652

PA Dept. of Corrections



CLERK'S OFFICE
U.S. DISTRICT COURT
228 WALNUT STREET
P.O. BOX 983
HARRISBURG, PA 17108



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